

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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CORNELIUS WALTER,

**ANSWER**

Plaintiff,

**08 CV 1599 (PAC)**

-against-

**JURY TRIAL DEMANDED**

CITY OF NEW YORK, SERGEANT HANSON, POLICE  
OFFICERS JOHN DOES 1 and 2,

Defendants.

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Defendant City of New York, by its attorney, Michael A. Cardozo, Corporation  
Counsel of the City of New York, for its answer to the complaint, respectfully alleges, upon  
information and belief, as follows: <sup>1</sup>

1. Denies the allegations set forth in paragraph "1" of the complaint, except  
admits that plaintiff purports to proceed as stated therein.

2. Denies the allegations set forth in paragraph "2" of the complaint, except  
admits that plaintiff purports to invoke the Court's jurisdiction as stated therein.

3. Denies the allegations set forth in Paragraph "3" of the complaint, except  
admits that plaintiff seeks to invoke the Court's supplemental jurisdiction as stated therein.

4. Denies the allegations set forth in paragraph "4" of the complaint, except  
admits that plaintiff purports to lay venue as stated therein.

5. Denies knowledge or information sufficient to form a belief as to the truth of  
the allegations set forth in paragraph "5" of the complaint.

6. Admits the allegations set forth in paragraph "6" of the complaint.

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<sup>1</sup> Upon information and belief, the individual identified in the caption of the complaint as  
"SERGEANT HANSON" has not been served with process. Thus, he is not a party to this  
action.

7. Denies the allegations set forth in the second paragraph "6" of the complaint, except admits that James Hansen is employed as a sergeant by the City of New York and that plaintiff purports to proceed as stated therein.

8. Denies the allegations set forth in the paragraph "7" of the complaint, except denies knowledge or information sufficient to form a belief as to whether the unidentified officers are employed by the City of New York.

9. Denies the allegations set forth in the paragraph "8" of the complaint.

10. Denies the allegations set forth in the paragraph "9" of the complaint, except admits that plaintiff was arrested on December 7, 2007, and transported to the 61<sup>st</sup> Precinct.

11. Denies the allegations set forth in the paragraph "10" of the complaint.

12. Denies knowledge or information sufficient to form a belief as to the allegations set forth in the paragraph "11" of the complaint.

13. Denies the allegations set forth in the paragraph "12" of the complaint.

14. Denies the allegations set forth in the paragraph "13" of the complaint, except admit that plaintiff was taken to Coney Island Hospital on December 7, 2007.

15. Denies the allegations set forth in the paragraph "14" of the complaint, except admits that plaintiff was not x-rayed at Coney Island Hospital.

16. Denies the allegations set forth in the paragraph "15" of the complaint, except admit that plaintiff was transported to the 61<sup>st</sup> Precinct from Coney Island Hospital.

17. Denies knowledge or information sufficient to form a belief as to the allegations set forth in the paragraph "16" of the complaint.

18. Denies the allegations set forth in the paragraph "17" of the complaint.

19. Denies knowledge or information sufficient to form a belief as to the allegations set forth in the paragraph "18" of the complaint.

20. Denies the allegations set forth in the paragraph "19" of the complaint.

21. In response to the allegations set forth in paragraph "20" of the complaint, defendants repeat and reallege the responses set forth in the preceding paragraphs inclusive of this answer, as if fully set forth herein.

22. Denies the allegations set forth in the paragraph "21" of the complaint.

23. In response to the allegations set forth in paragraph "22" of the complaint, defendants repeat and reallege the responses set forth in the preceding paragraphs inclusive of this answer, as if fully set forth herein.

24. Denies the allegations set forth in the paragraph "23" of the complaint.

25. Denies the allegations set forth in the paragraph "24" of the complaint.

26. Denies the allegations set forth in the paragraph "25" of the complaint.

27. In response to the allegations set forth in paragraph "26" of the complaint, defendants repeat and reallege the responses set forth in the preceding paragraphs inclusive of this answer, as if fully set forth herein.

28. Denies the allegations set forth in the paragraph "27" of the complaint.

29. In response to the allegations set forth in paragraph "28" of the complaint, defendants repeat and reallege the responses set forth in the preceding paragraphs inclusive of this answer, as if fully set forth herein.

30. Denies the allegations set forth in the paragraph "29" of the complaint.

31. Denies the allegations set forth in the paragraph "30" of the complaint.

**AS AND FOR A FIRST AFFIRMATIVE DEFENSE:**

32. The complaint fails to state a claim upon which relief can be granted.

**AS AND FOR A SECOND AFFIRMATIVE DEFENSE:**

33. Defendant has not violated any rights, privileges, or immunities under the Constitution or laws of the United State or the State of New York or any political subdivision thereof, nor have defendants violated any Act of Congress providing for the protection of civil rights.

**AS AND FOR A THIRD AFFIRMATIVE DEFENSE:**

34. Any injury alleged to have been sustained resulted from plaintiff's own culpable or negligent conduct or that of a third party and was not the proximate result of any act of defendant.

**AS AND FOR A FOURTH AFFIRMATIVE DEFENSE:**

35. The actions of any police officers involved were justified by probable cause.

**AS AND FOR A FIFTH AFFIRMATIVE DEFENSE:**

36. Plaintiff cannot obtain punitive damages as against the City of New York.

**AS AND FOR A SIXTH AFFIRMATIVE DEFENSE:**

37. At all times relevant to the acts alleged in the complaint, defendant City, its agents and officials, acted reasonably, properly, lawfully and in good faith in the exercise of their discretion. Consequently, defendant City of New York is entitled to governmental immunity.

**AS AND FOR A SEVENTH AFFIRMATIVE DEFENSE:**

38. Plaintiff may have failed to satisfy all conditions precedent to suit.

**WHEREFORE**, defendant City of New York requests judgment dismissing the complaint in its entirety, together with the costs and disbursements of this action, and such other and further relief as the Court may deem just and proper.

Dated: New York, New York  
May 12, 2008

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City of New York  
*Attorney for Defendant City of New York*  
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By:                     /s/                      
Gabriel P. Harvis (GH 2772)  
Assistant Corporation Counsel

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Defendants.

**ANSWER**

***MICHAEL A. CARDOZO***

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*Attorney for Defendants*

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*New York, New York 10007*

*Of Counsel: Gabriel P. Harvis*

*Tel: (212) 788-1816*

*NYCLIS No. 2008005535*

*Due and timely service is hereby admitted.*

*New York, N.Y. ...., 2008 . . .*

*..... Esq.*

*Attorney for.....*